Before the
Federal Communications Commission
Washington DC 20554

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In the Matter of	)	
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Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	GN Docket No. 09- 51
	)	

ECHALK , INC. INITIAL COMMENTS IN RESPONSE TO
E-RATE BROADBAND NOTICE OF PROPOSED RULEMAKING (FCC 10-83)
ELIGIBLE SERVICES LIST FURTHER NOTICE OF PROPOSED RULEMAKING
(FCC 09-105)
AND
E-RATE DRAFT ELIGIBLE SERVICES LIST FOR FUNDING YEAR 2011 (DA 10-1045)

eChalk submits these COMMENTS in response to three FCC public notices released (designated FCC 10-83 and FR ESL 09-105 and DA 10 -1045) seeking comment on proposed changes to the Erate program and whether certain services should be eligible for funding under the schools and libraries universal service support mechanism, known as the Erate program. eChalk is a privately owned company providing a variety of communication services. Those services include email and web hosting both specifically designed for use in the k-12 marketplace. eChalk has been involved in the Erate program since 1999.

In general, eChalk applauds the FCCs interest in and efforts to simplify the Erate program and increase the availability of funding to schools and libraries around the country. However, eChalk also cautions against implementing changes that on the surface may appear to make the program simpler, but in reality add complexity or will require a large increase in resources to manage. eChalk's general view is that any changes should focus on making the program and its rules transparent, easy to follow and enforce, and continue to support the stated mission of the Telecommunication Act of 1996: to provide "access to advanced telecommunications services for schools, health care and libraries."

Below eChalk has outlined its comments on many, but not all, of the FCC proposals.

PROPOSAL: Eliminate technology plan requirements for priority one applicants that otherwise are subject to State and local technology planning requirements

eChalk supports this proposal if it does in fact simplify the process for a majority of applicants and not require significant additional resources to administer. We believe it will simplify the process only if the following issues are clearly addressed and answered on a national level:

- It must be made easily transparent to all if an applicant is required to and has conformed to their local and State technology planning requirements.
- It must be made easily transparent to all if an applicant, which is not subject to local and State technology planning requirements, is required to follow those competitive bidding requirements of the FCC.
- The FCC should determine if this rule change will actually make the process easier for the applicant as many districts will end up completing a technology plan for their Priority Two application.
- The FCC should make it easily transparent for the applicant, vendors and PIA teams to track and enforce this new rule, so that minimal additional resources will be required.
- The FCC will need to update their forms and online filing tools in a manner that does not increase the complexity of the process.

eChalk suggests that whatever new rules are created with regards to tech plans, that they are simple and straightforward. For example, creating monetary thresholds above which would require tech plans adds another level of complexity to these rules that may be counterproductive.

PROPOSAL: Eliminate the requirement that applicants for priority one services file an FCC Form 470 and wait 28 days before signing a contract with their selected service provider, as long as those applicants are subject to public procurement requirements.

In general, eChalk supports the concept of eliminating duplicative forms or processes. However, eChalk is concerned that this proposal may inadvertently increase the complexity of the rules surrounding the application process and therefore disagrees with this proposal and believes that the FCC should keep the current process in place. By removing this requirement the FCC would:

- Complicate the process since these distinctions would have to be followed and updated on an applicant by applicant basis,
- Create an additional burden on the PIA review team who would need verify the rule has been followed on an individual applicant level, and
- Cause greater chance for human error for the applicants and their consultants in determining if a 470 is required.
- Make it more difficult for vendors to identify applicants seeking their products or services if they have not 470 to review

In addition there are many variables that could make such a rule untenable. For example many school districts have different procurement rules depending on the price of the purchase. This proposed rule would require all involved to understand which applications would require a 470 and which would not. It is likely that many applicants would end need to file one 470 for

Priority One services where they are not subject to local procurement rules thus defeating the spirit of this proposed rule.

To that end, eChalk does not support this proposal if it would complicate the application process rather than simplify it, and require significant additional resources to administer. However, if the FCC can address the issues noted below, eChalk would likely support such a rule change.

PROPOSAL: To amend our rules to codify the requirement that an applicant must conduct a fair and open bidding process when seeking bids for services eligible for E-rate support.

The FCC proposal to codify competitive bidding rules, including a list of prohibited activities is a welcome one that eChalk fully supports. As a vendor who provides extensive training to its employees, any clarification of rules will assist us in being able to educate our staff very accurately and should enhance compliance with the rules. Clarifications of the rules will likely help to eliminate fraud waste and abuse. eChalk agrees with the list of prohibited activities outlined in the NPRM with the exceptions noted below.

There are two rules noted in the NPRM that eChalk would like to comment on:

1. "A service provider may provide information to an applicant about products or services— including demonstrations—before the applicant posts the FCC Form 470, but not during the bid selection process."

   We believe that it is unreasonable to disallow vendors from demonstrating their products or services during the bid selection process. Many vendors don't learn of an applicant's interest in their services until after the 470 is posted. It is the 470 that alerts many vendors that the applicant in a prospective customer. This rule would create an uneven playing field benefiting those vendors who had a prior relationship with the district and disadvantaging those who did not.

2. Service providers may not offer or provide gifts, including meals, to employees or board members of the applicant.

   Our only comment on this rule is that many school districts have policies in place to address this issue, which would take precedent?

PROPOSAL: Adopt the National Broadband Plan recommendation to provide full E-rate support for wireless Internet access service used with a portable learning devices that are used off premises.

eChalk supports this proposed change. It will, however, require a large increase in the Erate funding cap to accommodate the major increase in funding requests that would likely follow, along with clear guidelines from the FCC. eChalk cautions that this would be a major change supporting Internet services for students and probably their families at home. We support the

FCCs attempt to support learning outside of the classroom that is increasingly occurring with the advent of new technologies focused on educating students.

PROPOSAL: Create a new, predictable funding mechanism for internal connections so that more schools and libraries have the ability to use the most technologically advanced applications, including video streaming to the classroom, to provide superior learning opportunities.

eChalk does not support a cap on basic maintenance funding, as it this service is critical to the successful reliable use of products and services purchased via other Erate funding. However, it is possible the FCC could limit basic maintenance funding to a certain percentage of the overall cost of the product or service that is being maintained.

PROPOSAL: Index the current $2.25 billion cap on E-rate disbursements to inflation to maintain the purchasing power of the current program and enable continued support for high speed broadband and internal connections in the future.

eChalk supports the increase in the funding cap to index for inflation, but would hope it would be retroactive to 1998 to maximize impact.

PROPOSAL: Create a process for schools and libraries to dispose of obsolete equipment without running afoul of the prohibition on reselling equipment and services purchased using E-rate funds.

One suggestion would be to follow standard GAAP principals and claim depreciation of this equipment over 3 years (some may use 5). This will enable standard tracking of the hardware in question and make everyone comfortable if the district sells them after three or five years. In addition this might help get more computers into homes that need them and/or not leave the districts with the burden of getting rid of 10year old toxic machines.

PROPOSAL: Anti-Virus and Anti-Spam software should NOT be eligible for E-rate funding

eChalk agrees. However, for anti spam and antivirus software that is included in the cost of a service, you create the issue of a necessary cost allocation process which is time consuming and often difficult to legitimize.

PROPOSAL: Wireless Internet Access Applications should NOT be eligible for E-rate funding

eChalk agrees with this proposal. The addition of wireless applications to the ESL would likely increase the funding requests for IA, and thus reducing commitments further for IC. If Wireless is to be considered an eligible service, the FCC needs to determine how to allocate the eligible usage (usage for educational purposes) and ineligible usage. This could be quite complex and require extra time and effort by PIA.

PROPSAL: Web Hosting Services should NOT be eligible for E-rate funding

eChalk is strongly opposed to the proposal to remove web hosting from the Eligible Services List for the following reasons:

1. Communication via the web has almost completely replaced other forms of communication that dominated when the Telecommunication Act of 1996 was written. Parents had to find information about their school from a note in the mail or brought home by their child. Less than 10% of the US was on the Web in 1996; today it is almost 100%. Google, Facebook, twitter had not been founded. Yet the FCC had the foresight to write the law to ensure that schools, health care, and libraries were to have "access to advanced telecommunications services". Making Web Hosting ineligible would be a step backwards for the FCC and for the institutions that rely upon this ubiquitous form of communication.

2. The funding commitment is small but the impact is large. Web Hosting funding requests have historically made up a small percentage of all IA requests. According to data found on Erate Manager (operated by Funds for Learning) the total funding committed for Internet Access since the inception of the program is $3.21 billion, and the total funding committed for the group of vendors that offer some sort of web hosting service is $89 million or 2.7% of the total IA funding over time. This percentage is probably larger than the real number associated with web hosting since many of those vendors included in the data offer email services or other eligible services outside of basic web hosting.

3. Web Hosting helps schools and libraries communicate with their constituents 24/7/365 in a way that was not possible before and is now a required component for any institution's communication efforts.

4. Web Hosting supports institutions more easily reaching and supporting members who were not supported by the more traditional forms of communication in 1996. This includes ESL learners, people with special hearing or seeing requirements, people who need to access information outside normal school hours.

eChalk believes that moving web hosting to a Priority 2 services is not an option. Such a move is counter to the definition of Web hosting and will effectively kill this annual service for applicants.

eChalk recommends that the FCC keep Web Hosting as an eligible service but limit web hosting eligibility to simply the hosting of a website – and be clear that content management tools, grading applications, templates are not eligible and need to be cost allocated out of a funding request.

eChalk appreciates the opportunity to comment on these proposed changes to the Erate program. Again, we appreciate the continued efforts of FCC to simplify and improve the Erate program.

Sincerely,

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